

**THE CITY OF MURFREESBORO
ENGINEERING-STREET DIVISION
INVITATION TO BID**

The City of Murfreesboro ("City") will receive and publicly open sealed bids in the City Manager's Office, Post Office Box 1139, 111 West Vine Street, Murfreesboro, Tennessee 37133-1139, telephone number (615) 849-2629. This Invitation to Bid (ITB) is subject to the instructions, conditions, specifications, addenda, and any other elements of this ITB, including those incorporated by reference.

DATE ISSUED: June 16, 2014
BID TITLE: Guard Rail Repair/Replacement
CITY CONTACT PERSON: Raymond Hillis, Superintendent
TELEPHONE NUMBER: (615) 893-4380
FAX NUMBER: (615) 904-6519
E-MAIL ADDRESS: rhillis@murfreesborotn.gov

All bid responses must be received and acknowledged in the City Manager's Office on or before the day and time listed below, at which time all bids will be publicly opened and read aloud.

SUBMIT BID RESPONSE IN SEALED ENVELOPE TO:

City of Murfreesboro
City Manager's Office
Post Office Box 1139
111 West Vine Street
Murfreesboro, Tennessee 37133-1139

Bid envelope must include the bid title, bid opening date, and the bidder's name. Failure to provide this information on the envelope may result in the bid not being considered. Do not submit bids by fax or electronically. Bids submitted by fax or electronically cannot be accepted or considered for award. Sealed bids are required.

BID OPENING DATE: June 16, 2014
BID OPENING TIME: 3:00 p.m., Murfreesboro Tennessee local time

1. INSTRUCTIONS AND CONDITIONS

1.1. Submission.

The City is seeking bids for the procurement of materials and services as set forth in the specifications for repair and/or replacement of guard rails. Sealed bids will be received by the City at the Office of the City Manager, City Hall, Post Office Box 1139, 111 West Vine Street, Murfreesboro, Tennessee 37133-1139, until 3:00 p.m. local time on June 25, 2014, at which time the bids will be opened. Late bids will not be considered and will be returned unopened.

1.2. Deadline and Late Responses

No bids received after bid opening date and time will be accepted. Bids postmarked on the bid opening date but received in the City Manager's office after the specified time will be considered late and will be returned unopened. The City shall not be responsible for bids that are mailed or sent via private delivery services. The City will not accept bids submitted by fax or electronic mail. Bids postmarked on the bid opening date but received in the City Manager's Office after the specified time will be considered late and will be returned unopened. The City shall not be responsible for bid responses that are mailed or sent via private delivery services.

1.3. Organization of Bid and Completeness.

Bids may be mailed or delivered to the City of Murfreesboro, Office of the City Manager, City Hall, Post Office Box 1139, 111 West Vine Street, Murfreesboro, TN 37133-1139. Attached are the specifications and bid form for the procurement of materials and services as set forth in the specifications for repair and/or replacement of guard rails. All bids shall be submitted on the attached bid form in sealed envelopes with "Guard Rail Repair/Replacement, Bid Opening Date June 16, 2014" on the outside of the envelope. All bids must be signed. Failure of a bidder to sign a bid proposal removes the bid from consideration. A typed name will not be acceptable without the person's written signature as well. The City will not accept bid responses submitted by fax or electronic mail.

All bids must be sealed and the envelope clearly marked with the bidder's name and the words, "Guard Rail Repair/Replacement", Bid Opening Date June 16, 2014." **Bid envelope must also contain information specified in 1.13 regarding licensure if applicable.** Failure to provide this information on the envelope may result in the bid not being considered. Bidders must allow sufficient time to ensure receipt of the bid. It shall be the sole responsibility of the bidder to have the bid delivered to the City before the bid deadline. Each bid shall include Attachment B-the Non-Collusion Affidavit of Prime Bidder, Attachment C-Bidder Affidavit on Compliance with Drug-Free Workplace Act and Certificate, and shall include a completed bid form.

Partial or incomplete bids will be rejected. All bid responses should be typewritten. If not typewritten, they must be written in ink and clearly legible, and numbers must be expressed in both words and figures. Erasures, white-outs, typeovers, and other modifications should be initialed. Bidders are cautioned to verify their bid response prior to submission.

1.4. Signature.

All bids must be signed by a duly authorized officer of the company empowered with the legal right to bind the company. A typed name will not be acceptable without the person's written signature as well. Signatures are required where indicated; failure to comply with this requirement shall be cause for rejection of bid. All submitted bids must be binding for a period of ninety (90) days from the bid submission deadline.

1.5. Response to Terms and Conditions.

Unless an exception is taken, the awarded contract will contain the requirements of this Invitation to Bid. In its sole discretion, the City reserves the right to either consider or reject any bid which takes exception to the specifications or attached contract.

1.6. Completeness of Invitation to Bid ("ITB").

These documents constitute the complete set of specification requirements and ITB. The bidder is responsible for insuring that all pages and all addenda are received. The City advises all bidders to closely examine this ITB package and immediately direct any questions regarding the completeness of this ITB package and any addenda thereto to the City's Contact Person.

1.7. Bid Interpretation. Communication with the Engineering – Street Division.

The Murfreesboro Engineering-Street Division has designated Raymond Hillis, Superintendent, to be responsible for coordinating communications between the department and firms submitting bids. If additional information is required in order to make an interpretation of items in this ITB, written questions (including faxes or e-mails) will be accepted until five (5) days prior to the bid opening date. All questions regarding the ITB should be addressed to:

Raymond Hillis
Engineering Street Division
City of Murfreesboro
620 West Main Street
Murfreesboro, TN 37133-1139
Telephone: (615) 890-4380
Fax: (615) 904-6519
Email: rhillis@.murfreesborotn.gov

The City specifically requests that no contact concerning this ITB be made with any other City personnel until the selection process has been completed. Failure to honor this requirement will be viewed negatively in the selection process and may result in the disqualification of a bid.

Any prospective bidder desiring an explanation or interpretation of this ITB, specifications, etc., must request such explanation in a written form received by the contact person no later than five (5) calendar days prior to the bid opening date.

There may be one or more amendments to this ITB. If you desire to receive copies or notices of any such amendments, you must complete and submit the Contact Information Form included in the ITB. Please send this information to the contact person listed above via fax or e-mail. The City will send amendments only to those firms which timely complete and return this form via fax or provide the requested information by timely e-mail.

1.8. Discrepancies, Errors, and Omissions.

Any discrepancies, errors, omissions, or ambiguities in this ITB, the specifications or addenda (if any) should be reported to the contact person for the Street Division. If necessary, a written addendum will be issued to firms on record and the addendum will be incorporated in the ITB and will become part of the contract. The City will NOT be responsible for any oral instructions, clarifications or other communications and no such oral communication may be relied on by any bidder.

1.9. Errors.

Certain mistakes may be corrected so long as the intended correct bid response is clearly evident. In the event of a disagreement between unit price and extended price, the unit price will control.

1.10. Subcontracting.

If any part of the work is, or is to be, subcontracted, the bidder shall provide within the ITB a description of the subcontracting organization and the contractual arrangements made therewith. All subcontractors will be subject to approval by the City. The successful bidder will also furnish the corporate or company name and the names of the officers or principals of said companies proposed as subcontractors by the bidder.

1.11. Bid Modification.

Bids may be modified, withdrawn, and/or resubmitted in writing to the City prior to the deadline for bid submission. After this deadline, no withdrawals or resubmissions may be made for any reason

1.12. Tax Exempt.

The City is exempt from federal and state taxes. Upon request, the City will provide a sales tax exemption certificate to the awarded firm. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations to the City, nor shall any vendor be authorized to use the City's Tax Exemption Number in securing such materials.

1.13. Contractor's License.

Pursuant to Tennessee Code Annotated Title 62, Chapter 6, Part 1, if a bid is \$25,000 or above, bidder must be a licensed contractor as required by the Contractor's Licensing Act of 1976, Public Chapter No. 822 of the General Assembly of the State of Tennessee as amended. In accordance with T.C.A. §62-6-119, Bidder shall place their bid on the envelope showing the bidder's name, license number, expiration date thereof, and license classification of the contractor applying to bid for the prime contract; (2) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the masonry contract (if applicable) where the total cost of the materials and labor for the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000); (3) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts (if applicable) except when such contractor's portion of the construction project is less than twenty-five thousand dollars (\$25,000); (4) For each vertical closed loop geothermal heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, except when the geothermal portion of the construction project is in an amount less than twenty-five thousand dollars (\$25,000); (5) Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation or air conditioning or the geothermal heating and cooling must be so designated; and (6) Only one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document.

Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

1.14. Drug-Free Workplace.

Pursuant to T.C.A. §50-9-113, a Bidder must have a Drug-Free Workplace Program that complies with Tennessee Code Annotated, Title 50, Chapter 9 in effect at the time of submission of its bid, at least to the extent required of governmental entities.

The City of Murfreesboro has a Drug-Free Workplace Program certified by the Tennessee Department of Labor and Workforce Development pursuant to Title 50, Chapter 9. The City of Murfreesboro Drug-Free Workplace Program is set forth in City of Murfreesboro Employee Handbook Sections 3005 and 3006 (copies are available without charge upon request). City of Murfreesboro Employee Handbook Sections 3005 and 3006 provide for the random testing, reasonable suspicion testing, pre-employment testing, promotion or transfer testing, post-accident testing, return-to-duty testing, and follow-up testing of all employees classified as safety sensitive or as CDL employees for alcohol and/or drugs. Additionally, Murfreesboro Employee Handbook Section 3005 provides for reasonable suspicion testing, return-to-duty testing and follow-up testing for non-safety sensitive employees for drugs and alcohol. Such testing is conducted using the same standards as in the United States Department of Transportation Regulations established for the drug and alcohol testing of CDL operators. A bidder for construction services is required to submit an Affidavit as part of its bid that attests that such bidder operates a Drug-Free Workplace Program or other drug or alcohol testing program with requirements at least as stringent as that of the program operated by the City of Murfreesboro. (See Attachment C)

Bidder may satisfy this requirement by attaching a copy of a Certificate of Compliance with the applicable provisions of the Drug-Free Workplace Act from the Department of Labor and Workforce Development to the City to the required Affidavit. Pursuant to T.C.A. §50-9-114(b), unless suit is filed in Chancery Court, bidders shall have seven (7) calendar days to contest a contract entered into by contractors subject to the provisions of this section. Bidders who do not contest such contracts within seven (7) calendar days by filing suit in Chancery Court waive any right to challenge such contract for violating the provisions of T.C.A. §50-9-113 and T.C.A. §50-9-114. Such suits shall be brought in the Chancery Court for Rutherford County.

1.15. Permits.

The Contractor shall secure and pay for any permits and governmental fees, licenses and inspections necessary for proper execution and completion of the work which are customarily secured after execution of the Contract and which are legally required when bids are received.

1.16. Building and Safety Codes.

The awarded bidder must strictly comply with federal, state, and local building and safety codes. Equipment must meet all federal and state safety regulations for grounding of electrical equipment and for lockout/tagout processes. The successful bidder will obtain and pay for all permits, including City permits necessary to complete the work.

1.17. Pricing Effective for Ninety (90) Days.

The successful bidder shall provide in the bid price the cost for services rendered and the various components of equipment, including all parts, labor, accessories and any other standard equipment, necessary to make these items function as intended. Bids shall remain open for acceptance for ninety (90) days after bid submittal. If, in the bidder's opinion, additional equipment or services are necessary to complete the repairs, this shall be included with explanation in the bid. It is requested that bidders raise any such questions in advance of submitting a bid to the City. To submit a bid implies consent to the terms set forth in this ITB.

1.18. Approval Required.

No award or acquisition can be made until approved by the City Council if the procurement exceeds twenty-five thousand dollars (\$25,000) or the City Manager if the procurement is less than twenty-five thousand dollars (\$25,000). The City will not be obligated to bidders for equipment and/or services until the completion of a signed contract approved by authorized officials of the City. This solicitation in no manner obligates the City to the eventual rental, lease, or purchase of any equipment or services described, implied, or which may be proposed, until confirmed by a written contract. Progress towards this end is solely at the discretion of the City and may be terminated at any time prior to the signing of a contract.

1.20 Consideration of Bid.

In addition to the price, the following aspects will also be considered in the award of a contract:

- a. The ability of the bidder to perform the contract or to provide the material for service required;
- b. Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
- c. The character, integrity, reputation, experience and efficiency of the bidder;
- d. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- e. Terms and conditions stated in bid;
- f. Compliance with specifications or the ITB; and,
- g. Utilization of the bid form.

1.21 Terms and Conditions.

The City reserves the right to reject any and all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) which, in the judgment of the governing body, is in the best interest of the City.

1.22 Withdrawal of Bid.

No bidder may withdraw its bid for a period of ninety (90) days after the date and time set for the opening of the responses. In the event the City awards a contract to a bidder and during such ninety (90) day period determines that such bidder will be unable to properly perform the contract, the City reserves the right to terminate the contract and award the contract to the next best offer without being required to re-advertise the project.

1.23 Cost of Response.

The City will not be liable for any costs incurred by the bidders in preparing a response to this solicitation. Bidders will submit responses at their own risk and expense. The City makes no guarantee that any equipment or services will be purchased as a result of the solicitation and reserves the right to reject any and all responses. All responses and their accompanying documentation will become the record of the City.

1.24 Contract.

The successful bidder's response to this ITB shall be included as an addendum to the contract. Should any conflict or discrepancy arise between the ITB and the contract, the contract shall control. All bidders who are awarded contracts pursuant to this ITB agree to be bound by the terms and conditions set forth in the attached City Contract (Attachment A). If the bidder objects to any contract terms or proposes any additional terms, such objections and terms must be set forth in the bid. Rejection of any proposed City Contract terms may be a basis for rejection of the bid.

1.25 Contract Termination.

The City reserves the right to cancel the contract for the work without cost or penalty to the City if, in the City's opinion, there is a failure at any time by the contractor to adequately perform the contract, or if there is any attempt to willfully impose upon the City a material or product or workmanship which is, in the opinion of the City, of an unacceptable quality. Cancellation of the contract shall not impair any rights or claim of the City to damages for the breach of any covenants of the contract by the contractor.

The contract awarded may be terminated upon any of, but not limited to, the following occurrences: a) bankruptcy or insolvency of the bidder or one or more of the bidder's principal owners; b) unauthorized substitution of products other than those identified in the specifications or specifically approved by the City as a substitute prior to award of the contract; c) unsatisfactory performance of products supplied by the bidder or services provided by the bidder; d) fraud and e) any other breach of the terms of the ITB specifications or contract.

1.26 Contract Modification.

The contract may be modified only by written amendment executed by all parties and their signatories hereto.

1.27 Replacement or Repair.

No waiver of any provision of the contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default. The City, at its option and in lieu of immediate termination, may request the awarded bidder replace or repair any defective goods or correct performance by written notice to the contractor. In that event, the contractor shall take corrective action within the amount of time specified by the City in the written notice. Exercise of this option shall not relieve the contractor of any liability to the City for damages for the breach of any covenants of the contract by the contractor.

1.28 Expense of Legal Action.

Awarded bidder agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event the City prevails, awarded bidder shall pay all expenses of such action including the City's attorney fees and costs at all stages of the legal action.

1.29 Governing Laws.

The validity, construction and effect of the contract, and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee.

1.30 Severability.

Should any provision of the contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of the contract. Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.

1.31 Indemnification and Hold Harmless.

Contractor shall indemnify and hold harmless the City, its officers, agents and employees from: i) any claims, damages, costs, and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omission of awarded bidder, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of this contract; and ii) any claims, damages, penalties, costs, and attorney's fees

arising from any failure of awarded bidder, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

1.32 Liquidated Damages

Liquidated damages for failure to meet installation and/or supply schedules shall be in the amount of one-hundred dollars (\$100.00) per calendar day.

1.33 Statutory Disqualification.

By submitting a response, it is represented that neither it nor any of its officers, directors, shareholders, member, or partners has been convicted or plead guilty or nolo contender to any violation of the Sherman Anti-Trust Act, mail fraud, or other state or federal criminal violation in connection with a contract let by the City of Murfreesboro or any political subdivision of the State of Tennessee.

1.34 Contractor's Employment Practices.

Bidder, after being first duly sworn, affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

1.35 City's Employment Practices.

It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.

1.36 Conflict of Interest.

By submitting a response, it is represented that no officer, committee member, or director of the City or other persons whose duty is to vote for, let out, overlook, or in any manner supervise any work on any contract for the City has a "direct interest", as defined by T.C.A. §12-4-101, in the bidder or in the work which is subject to this ITB.

1.37 Ethical Standards.

Bidder understands that it shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or bid therefore.

1.38 Breach of Ethical Standards.

A breach of ethical standards could result in civil and/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

1.39 Payments.

Payments under the contract shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The final payment shall not be made until after the performance is complete and accepted by the City.

1.40 Progress Reports.

Periodic progress reports will be required to be submitted to the City.

1.41 Contract Term.

The term of this contract shall be for one year and may be automatically renewed in one year increments for an additional two (2) years at the discretion of the City.

1.42 Codes & Regulation.

All services and/or equipment must comply with city, county, state, and federal laws, rules, codes and regulations. The contractor will obtain and pay for all permits, if any, necessary to complete the work.

1.43 Non Collusion.

The bidder must be able to execute and include with the bid the Affidavit Relative to Non-Collusion attached as Attachment B.

1.44 Insurance.

The selected bidder must be able to provide proof of comprehensive general liability insurance in a combined single limit amount of not less than One Million Dollars and workers' compensation insurance. The City shall be named as an additional insured on the general liability insurance.

1.45 Bid Award

Any contract awarded pursuant to this ITB shall be awarded to the lowest responsive and responsible bidder whose bid response meets the requirements and criteria set forth in this ITB. A "responsive bidder" means a person who has submitted a bid response, which conforms in all material respects to the ITB. A "responsible bidder" means a person who has the capacity, reputation and experience in all respects to perform fully the contract requirements and the integrity and reliability, which will assure good faith performance within the time specified without delay or interference.

The City may make such investigations as deemed necessary to determine the ability of the bidder to provide the products and services required by the bid package.

This solicitation in no manner obligates the City to the purchase described, implied or which may be proposed, until confirmed by a written contract. Progress toward this end is solely at the discretion of the City and may be terminated at any time prior to the signing of a contract. The City reserves the right to make revisions to any quantity shown on the bid form dependent upon bid prices and available funding. Prices bid on each item shall be firm regardless of the actual quantity of item(s) purchased.

The successful bidder shall provide the various components necessary for guard rail repair and/or replacement. **The bid price shall include all parts, labor, accessories and any other standard equipment necessary to make these items function as intended. Pricing for each component shall be effective for one (1) year from date of bid award.** If in the bidder's opinion, additional equipment or services are necessary to make the equipment fully operational; this shall be included with explanation in the bid. It is requested that bidders raise

any such questions in advance of submitting a bid to the City. To submit a bid implies consent to the terms as set forth in this bid.

Any items bid deemed not of equal and/or better and of comparable quality and similar in design as that specified shall be cause for rejection of bids. In addition to the price, the following aspects will also be considered in the award of a contract:

- a. The ability of the bidder to perform the contract or to provide the material for service required;
- b. Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
- c. The character, integrity, reputation, experience and efficiency of the bidder;
- d. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- e. The ability of the bidder to provide future maintenance and/or service for the subject of the contract;
- f. Terms and conditions stated in bid;
- g. Compliance with specifications or the ITB;
- h. Utilization of the bid form; and,
- i. Bidder's past performance with the City.

The City reserves the right to reject any and all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) which in the judgment of the governing body is in the best interest of the City.

1.46 Payment and Delivery

1.46.1. Payment will be made by the City after goods and/or services have been received, accepted, and properly invoiced as indicated in the contract and/or purchase order. Invoices must bear the purchase order number.

1.46.2. Forty-eight (48) hours advance notice should be given prior to delivery and installation. With delivery, any required installation shall begin and continue day to day until complete. Deliveries and installations resulting from this ITB are to be made during the normal working hours of the City, 8:30 a.m. through 4:30 p.m., Monday through Friday. Time is of the essence and the bidder's delivery date must be specified and adhered to. Should the awarded bidder fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The awarded bidder(s) shall be responsible for making any and all claims against carriers for missing or damaged items.

1.46.3. Delivered and installed items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in this ITB.

1.46.4. All deliveries made pursuant to this ITB, and the contract award, must be made pursuant to written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Unless otherwise specified in this ITB, delivery and freight charges are to be prepaid and included in the bid price.

1.46.5. Bidder agrees that other parts and services not specified, but which might be needed by the City in fulfillment of the procurement transaction, will be made available at prices equal to or less than the lowest price charged other non-profit or governmental organizations.

2. SPECIFICATIONS

2.1 Overview

2.1.1 The purpose of this Invitation to Bid (ITB) is to solicit and select the most qualified bidder(s) to repair and replace guard rails for the City of Murfreesboro as set forth in the bid form.

2.1.2 The City does not guarantee the purchase of any specific or minimum quantity of work during the term of this agreement. Purchase orders will be issued for guard rail repair and/or replacement as needed at the contract unit price

2.2 Specifications

2.2.1 ALL MATERIALS INSTALLED UNDER THIS BID SHALL CONFORM TO THE CURRENT TDOT SPECIFICATIONS, STANDARD DRAWINGS, AND SPECIAL PROVISIONS. Current TDOT specifications for guard rails may be found under sections 705 and 706 of the TDOT Manual available at www.tdot.state.tn.us.

2.2.1.1 NO USED RAIL, POST, BLOCKS, B.U. PLATES AND HARDWARE SHALL BE USED.

2.2.1.2 TRAFFIC CONTROL DEVICES SHALL BE USED IN COMPLIANCE WITH THE MUTCD. THIS AMOUNT SHALL BE PAID ONCE PER PURCHASE ORDER AND SHALL ALSO INCLUDE THE COST OF LANE CLOSURES, FLAGMEN, ETC.

2.2.2 Bids will be for a one-year period: July 1, 2014 through June 30, 2015 and shall be automatically renewable at the City's discretion for an additional two years.

2.2.3 Awarded Bidder shall include a copy of all guarantees, and warranties with the bid form.

The specifications described in this ITB are designed to establish a minimum level of quality and are not meant to preclude equipment manufactured of equal or better quality.

(The remainder of this page is intentionally left blank.)

5. BID FORM

Bid Name: GUARD RAIL REPAIR/REPLACEMENT

All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories and any other standard equipment necessary to provide this service. Pricing shall be effective for three (3) years from date of bid award. The City is not subject to sales tax.

In compliance with this ITB, and subject to all conditions thereof, the undersigned agrees that if this bid response is accepted within ninety (90) calendar days from the date of award, to furnish any or all of the items and/or services upon which price(s) are quoted, at the price set opposite each item unless otherwise specified.

Bidder has attached executed Non-Collusion Affidavit

Yes _____ No _____

Bidder has attached executed Drug-Free Workplace Affidavit

Yes _____ No _____

ITEM NO.	DESCRIPTION NUMBER	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	TOTAL
1	705-01.01	G-Rail @ Br. Ends	108 LF		
2	705-02.03	Single G-Rail (Post 7' - 3')	100 LF		
3	705-02.02	Single G-Rail (Type 2)	2500 LF		
4	705-10.22	Flared End	10 EACH		
5	705-10.26	Rounded End	10 EACH		
6	705-04.03	Type 13	4 EACH		
7	705-04.05	G-Rail Anchor (Type in-line)	4 EACH		
8	705-04.04	G-Rail Anchor (Type 21)	4 EACH		
9	705-04.07	TYPE 38	4 EACH		
10	705-01.04	Metal Beam Guard Fence	400 LF		
11	706-01	Guard Rail Removal	500 LF		
12	706-05	Re-Align G. Rail (Vert/Horiz)	500 LF		
13	712-01	Traffic Control Devices	1 LS		
14	717-01	Mobilization	1 LS		
GRAND TOTAL					

THIS RESPONSE SHALL BE REJECTED IF NOT SIGNED WHERE INDICATED.

Name of Firm: _____

Form of Business: _____

Authorized Signature and Date: _____

Name Printed and Title: _____

Address: _____

Telephone Number: _____ Fax Number: _____

E-Mail: _____

Project Completion Date: _____

CONTACT INFORMATION FORM

There may be one or more amendments to this Invitation to Bid. If your company desires to receive copies or notices of any such amendments, you must provide the information requested below to the City. Please send this information to the City's contact person listed above via mail or fax. The City will send amendments only to those firms which timely complete and return this form via mail or fax.

Bid Title

Company name

Mailing address

Phone number

Fax number

Company Contact Person

ATTACHMENT A

CONTRACT BETWEEN CITY OF MURFREESBORO AND

(CONTRACTOR NAME)

FOR GUARD RAIL REPAIR/REPLACEMENT

This contract is entered into on this _____, by and between THE CITY OF MURFREESBORO, a municipal corporation of the State of Tennessee ("City") and CONTRACTOR NAME, and _____ of the State of Tennessee ("Contractor"). This contract consists of the following documents:

- Invitation to Bid issued _____
- Bid specifications issued _____
- Contractor's Bid Response dated _____
- This Contract

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- Any properly executed amendment or change order to this contract (most recent with first priority)
 - This Contract
 - Invitation to Bid & Bid Specifications
 - Contractor's Bid Response
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide Guard Rail Repair/Replacement services for the City of Murfreesboro as set forth in the Invitation to Bid, Bid Specification, and Contractor's Bid Response.
 2. **Duties and Responsibilities of the City.** The City shall provide reasonable access to the work area for contractor forces, during normal hours of operation.
 3. **Term.** This contract shall not be effective until approved by the City Council and signed by all required parties. The term of this contract shall be from July 1, 2014 to June 30, 2015, and shall be automatically renewable at the City's discretion for an additional two years.
 4. **Payment.** Monthly payment will be made by the City based on work progress after services have been received, accepted, and properly invoiced. Once Contractor has submitted a monthly invoice, the City will issue payment within thirty (30) days form submittal of the invoice. The final payment shall be made only after Contractor has completely performed its duties under this contract and the work has been accepted by the City and Engineer upon final inspection.

5. **Price.** The price for services shall be invoiced at the prices and charges fixed by the Contractor as per the attached bid which will reflect the total bid price.
6. **Warranty.** Unless otherwise specified every item bid shall meet the warranty requirements set forth in the specifications.
7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
8. **Termination—Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within seventy-two (72) hours after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said seventy-two (72) hours. Such termination shall not relieve Contractor of any liability to City for damages sustained by virtue of any breach by Contractor.
9. **Termination—Funding.** Should funding for the Guard Rail Repair/Replacement be discontinued, City shall have the right to terminate the contract immediately upon written notice to Contractor.
10. **Termination—Notice.** City may terminate this contract at any time upon thirty (30) days written notice to Contractor. In that event, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
11. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
12. **Notices.**
 - a. Notices to City including but not limited to notice of assignment of any rights to money due to Contractor under this Contract must be mailed or hand delivered to the attention of City Manager, Post Office Box 1139, 111 West Vine Street, Murfreesboro, Tennessee 37133-1139.
 - b. Notices to Contractor shall be mailed or hand delivered to Contractor, Insert Name and Address.
13. **Maintenance of Records.** Contractor shall maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

14. **Modification of Contract.** This contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the contract may be executed by signature of the City Manager in lieu of the City's signatory hereto.
15. **Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
16. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
17. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which
18. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, Contractor certifies and warrants it will comply with this policy.
19. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold harmless City, its officers, agents, and employees from:
- a. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, in connection with the performance of the Contract, and,
 - b. Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
 - c. Contractor shall pay City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
20. **Insurance.** The Contractor must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Contractor must notify City if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
21. **Attorney Fees.** Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the Contract, and in the event City prevails,

Contractor shall pay all expenses of such action including City's attorney fees and costs at all stages of the litigation.

22. **Assignment—Consent Required.** The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of City. Any such assignment or transfer shall not release Contractor from its obligations hereunder. NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF CITY MANAGER, POST OFFICE BOX 1139, 111 WEST VINE STREET, MURFREESBORO, TENNESSEE 37133-1139.
23. **Entire Contract.** This Contract, Invitation to Bid, Bid Specifications, and Contractor's bid response set forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.
24. **Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes not attributed to fault or negligence of Contractor.
25. **Governing Law.** The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.
26. **Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.
27. **Severability.** Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.
28. **Notices.** Any notice to Contractor from the City relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the work.

- a. Notices to City shall be sent to:

Department: City of Murfreesboro Administration
Attention: City Manager
Address: Post Office Box 1139
111 West Vine Street
Murfreesboro, TN 37133-1139

- b. Notices to Contractor shall be sent to:

Contractor:

29. **Effective Date.** This Contract shall not be binding upon the parties until it has been signed first by the Contractor and then approved by the City Council and signed by the Mayor. When it has been so signed, this Contract shall be effective as of the date first written above.

Kelley Baker, Staff Attorney

My Commission Expires: _____

ATTACHMENT B
NON-COLLUSION
AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that;

1. The undersigned is the (owner, partner, officer, representative, or agent) of _____, the bidder submitting the attached bid.
2. Bidder is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.
3. Neither the said bidder nor any of its officer, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way collude, conspired, connived or agreed, directly or indirectly, with any other bidder, firm or person to submit an collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, or, to fix any overhead, profit, or cost element of the bid price or unlawful agreement any advantage against the City of Murfreesboro or any person interested in the proposed contract.
4. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agent, representatives, owners, employees, or parties in interest including this affidavit.

Name of Bidder

Printed Name and Title

Sworn to and subscribed before me a Notary Public for the above state and county, on
This _____ day of _____ 20____

Notary Public

My Commission Expires

ATTACHMENT C

State of _____

County of _____

**BIDDER AFFIDAVIT ON COMPLIANCE
WITH DRUG-FREE WORKPLACE ACT AND CERTIFICATE**

Bidder, after being first duly sworn, affirms that it has a Drug-Free Workplace Program that complies with Tennessee Code Annotated, Title 50, Chapter 9, in effect at the time of submission of its bid, at least to the extent required of governmental entities. Bidder affirms that:

1. It has receives a Certificate of Compliance with the applicable sections of the Drug-Free Workplace Act from the Department of Labor and Workforce Development and has attached a copy of such certificate to this affidavit; or
2. It operates a drug and alcohol testing program at least as stringent as the City of Murfreesboro's drug and alcohol testing program as contained in Sections 3005 and 3008 of the City of Murfreesboro Employee Handbook and shall, upon request, provide documentation of such program to the city.

Name of Bidder

Printed Name and Title of Principal Officer

Signature of Principal Officer

Sworn to and subscribed before me a Notary Public for the above state and county, on
This _____ day of _____ 20____

Notary Public

My Commission Expires